

Response to Restriction Requirement

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Applicant(s): Steer et al.

Serial No.: 10/549,867

Confirmation No.: 4764

Filed: September 22, 2005

For: METHODS OF PROMOTING CELL VIABILITY

Applicants submit that in view of the amendment to claim 23, withdrawn claims 23-30 and 33-41 properly belong in Group A. Applicants further submit that new claims 66-75 belong in Group A. The rejoinder and examination of claims 23-30, 33-41, and 66-75 is respectfully requested.

Claim 7 is drawn to the *in vitro* treatment of a transplant cell population with ursodeoxycholic acid, and, as acknowledged by the Examiner, belongs to elected restriction Group A. Claim 9 depends from claim 7, recites "further comprising treating the subject with the compound," and, as acknowledged by the Examiner, belongs to elected restriction Group A. Claims 10-14 depend from claim 9. The Examiner has placed claims 10-14 in restriction Group B. Applicants submit that this is improper, that dependent claims 10-14 include all of the limitations of claim 7 and, thus, belong in elected restriction Group A. The rejoinder and examination of claims 10-14 along with the elected claims of Group A is respectfully requested.

In the Restriction Requirement mailed October 30, 2007, the Examiner asserted "[b]ecause applicants did not distinctly and specifically point out the supposed errors in the [first] restriction requirement [mailed August 1, 2007], the election [filed August 22, 2007] has been treated as an election with out traverse (MPEP 818.03(a))." Applicants respectfully submit that this assertion is incorrect. According to MPEP 818.03(a), "the applicant is required to specifically point out the reasons on which he or she bases his or her conclusions that a requirement to restrict is in error. A mere broad allegation that the requirement is in error does not comply with the requirement of 37 CFR § 1.111." In the Response to Restriction Requirement filed August 22, 2007, Applicants elected Group I (claims 1-21) with traverse. Applicants "request[ed] reconsideration of the restrictions in this case and submitt[ed] that the inventions as claimed can be readily evaluated in one search without placing undue burden on the Examiner." Applicants submit that the response filed August 22, 2007, specifically pointed out reasons to support the traverse of the restriction requirement, ("that the inventions as claimed can be readily evaluated in one search without placing undue burden on the Examiner"). Applicants submit that the Response to Restriction Requirement, filed August 22, 2007, provided a proper traverse. Correction of the record to indicate election of Group I, with traverse, is requested.

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The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if there are any questions regarding this Response or if prosecution of this application may be assisted thereby.

CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 13 day of December, 2007, at 8:50 A.M. (Central Time).

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December 13, 2007
Date

Respectfully submitted

By

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